

**MEMORANDUM OF AGREEMENT BETWEEN THE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'S
NATIONAL OCEAN SERVICE
AND THE
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
FOR THE WARRENVILLE GROVE DAM MODIFICATION PROJECT
LOCATED IN WARRENVILLE, ILLINOIS**

MOA-2010-069/8154

WHEREAS, DuPage County Stormwater Management Division (County), the proponent, and the Forest Preserve District of DuPage County, the landowner, are proposing to modify the Warrenville Grove Dam in Warrenville, Illinois to restore a free-flowing river segment and its natural ecological functions and improve public safety; and

WHEREAS the National Oceanic and Atmospheric Administration's National Ocean Service (NOAA/NOS) proposes to give the County grant funding for West Branch DuPage River floodplain ecological enhancement including the proposed undertaking; and

WHEREAS the NOAA/NOS has authority to conduct this work pursuant to Public Law 106-553, directing the NOAA to restore the DuPage River; and

WHEREAS, the NOAA/NOS has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to applicable regulations found in 36 CFR Part 800, and 33 CFR Part 325, Appendix C, implementing Section 106 of the National Historic Preservation Act (16 USC § 470f); and

WHEREAS, the NOAA/NOS and the Illinois SHPO agree that the proposed modification of the Warrenville Grove Dam will potentially have an adverse effect on the Warrenville Grove Dam, which was determined to be eligible for the National Register of Historic Places; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), NOAA has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the County participated in the consultation process; and

WHEREAS, the Forest Preserve District of DuPage County is the owner of the Warrenville Grove Dam; and

WHEREAS, the County has conducted outreach to the local and regional community interested in the historic resources to encourage public participation in this Section 106 consultation process;

NOW, THEREFORE, the NOAA/NOS and the Illinois SHPO agree that the undertaking shall be implemented with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The NOAA/NOS, through the County, shall ensure that the following measures are carried out in consultation with the Illinois SHPO:

I. Documentation

- A. With assistance from a 36 CFR 61 qualified architectural historian, the Warrenville Grove Dam will be documented in accordance with Illinois Historic American Buildings Survey/Historic American Engineering Record (IL HABS/HAER) standards.
 - 1. The IL HABS/HAER recordation number will be Du-2010-1.
 - 2. Level III documentation including the following will be required:
 - i. Site plan of the Warrenville Grove Dam presented on 8.5x11 archival bond paper;
 - ii. Sketch drawings of the dam. CAD or suitable substitutions are acceptable in place of sketch drawings;
 - iii. Digital photography meeting the standards and guidelines of the National Register of Historic Places and 5x7 print photography of the dam; and
 - iv. Written contextual history of the site/dam/Civilian Conservation Corps and written architectural description of the dam using the IL HABS/HAER designated outline format.
- B. Draft documentation will be submitted for review and approval by the Illinois SHPO.
 - 1. If comments are not received within thirty (30) days of submission, it will be assumed that the documentation is acceptable.
 - 2. Final documentation submitted to the Illinois SHPO shall take into consideration any review comments provided.
- C. After Illinois SHPO approval, completed IL HABS/HAER documentation will be deposited within the archives section of the Abraham Lincoln Presidential Library. The Illinois Historic Preservation Agency (IHPA) will receive one standard and one CD-ROM copy of the approved documentation.

- D. The NOAA, through the Forest Preserve District of DuPage County, shall ensure that no demolition or modification of the Warrenville Grove Dam will be undertaken until IL HABS/HAER draft photo documentation is approved in writing by the Illinois SHPO.

II. Interpretive Signage

- A. An exhibit panel incorporating significant information about the Warrenville Grove Dam will be prepared by the County, with assistance from a 36 CFR 61 qualified historian, and reviewed and approved by the Illinois SHPO per the process outlined in stipulation I.B above. The panel will be located near the site of the dam in the Warrenville Grove Forest Preserve in a location approved by the Illinois SHPO and the landowner, the Forest Preserve District of DuPage County. The deadline for completing the signage shall be two (2) years from the date of execution of this MOA. This deadline may be extended if mutually agreeable between NOAA/NOS, Illinois SHPO, and the County.
- B. The millrace (Attachment 1) has been determined by the Illinois SHPO to be eligible for the National Register of Historic Places. Although this project does not propose to modify the structure of the nearby millrace, the County, with assistance from a 36 CFR 61 qualified historian, will prepare an exhibit to be placed near the millrace to incorporate significant information about the millrace and its relation to structures formerly located in the vicinity (e.g., original dam, mill). The location of the signage will be approved by the Illinois SHPO and the landowner, the Forest Preserve District of DuPage County. The deadline for completing the signage shall be two (2) years from the date of execution of this MOA. This deadline may be extended if mutually agreeable between NOAA, Illinois SHPO and the County.

III. Water flow to the Millrace

The project design for the dam modification includes a millrace inlet system (Attachment 2). The purpose of the inlet is to maintain the historic function of the millrace by providing flows to it as conditions allow. The interpretive signage described above in Stipulation II.B will include an explanation of the purpose of this piped water supply.

IV. Unidentified Historic Properties

The NOAA/NOS will ensure that if previously unidentified historic properties are discovered that may be affected by the undertaking, the Illinois SHPO will be notified. The NOAA/NOS and Illinois SHPO will apply the National Register criteria for eligibility and consultation pursuant to 36 CFR 800.4.

V. Duration

This agreement will become effective upon signature of all signatory parties and

terminates five (5) years thereafter. Prior to such time, the NOAA/NOS may consult with the Illinois SHPO to reconsider the terms of the MOA and amend it in accordance with stipulation VIII below.

VI. Monitoring and Reporting

Each year on the anniversary of the execution of this MOA until it expires or is terminated, the NOAA shall require the County to provide to the NOAA/NOS and the Illinois SHPO a summary report detailing work undertaken pursuant to the MOA's terms. Such reports shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received during efforts to carry out the terms of this MOA.

VII. ANTI-DEFICIENCY ACT

This MOA is not a fiscal or fund obligating document and no funds are transferred hereunder. All requirements set forth in this MOA requiring the expenditure of NOAA/NOS funds are expressly subject to the availability of appropriations and the requirements of the Anti-Deficiency Act (31 U.S.C. § 1341). No obligation undertaken by NOAA/NOS under the terms of this MOA will require or be interpreted to require a commitment to expend funds not obligated for a particular purpose.

If NOAA/NOS cannot perform any obligations set forth in the MOA due to the unavailability of funds, NOAA/NOS and the Illinois SHPO intend that the remainder of the agreement be executed. In the event that any obligation under the MOA cannot be performed due to the unavailability of funds, NOAA/NOS agrees to utilize its best effort to renegotiate the provision, and may require that the parties initiate consultation to develop an amendment to this MOA when appropriate.

VIII. Dispute Resolution

A. Should the NOAA or the Illinois SHPO object within thirty (30) days to any actions proposed or carried out pursuant to this MOA, the NOAA/NOS and the Illinois SHPO shall consult with each other to resolve the objection. If the NOAA/NOS determines that the objection cannot be resolved, the NOAA shall forward all documentation relevant to the dispute to the ACHP. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will either:

1. Provide the NOAA/NOS with recommendations, which it will then take into account in reaching a final decision regarding the dispute; or
2. Notify the NOAA/NOS that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any recommendations or comment provided by the ACHP will be understood to pertain only to the subject of the dispute; the NOAA/NOS responsibility to carry out all actions under the MOA that are not subjects of the

dispute will remain unchanged.

- B. If at any time during the implementation of the measures stipulated in this MOA, an objection should be raised by an interested member of the public or consulting parties, the NOAA/NOS will consult with the the Illinois SHPO to determine the appropriate response.

IX. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

Execution of this MOA by the NOAA/NOS and Illinois SHPO, the subsequent filing of this MOA with the ACHP, and implementation of the terms of this MOA evidences that the NOAA/NOS has afforded the ACHP an opportunity to comment on the proposed undertaking, and that the NOAA/NOS has taken into account the effects of this undertaking on historic properties.

SIGNATORIES

National Oceanic and Atmospheric Administration, National Ocean Service

By:  Date: _____
David Westerholm, Director, Office of Response and Restoration

Illinois Historic Preservation Agency

By:  Date: 9.8.11
Anne E. Haaker, Deputy State Historic Preservation Officer

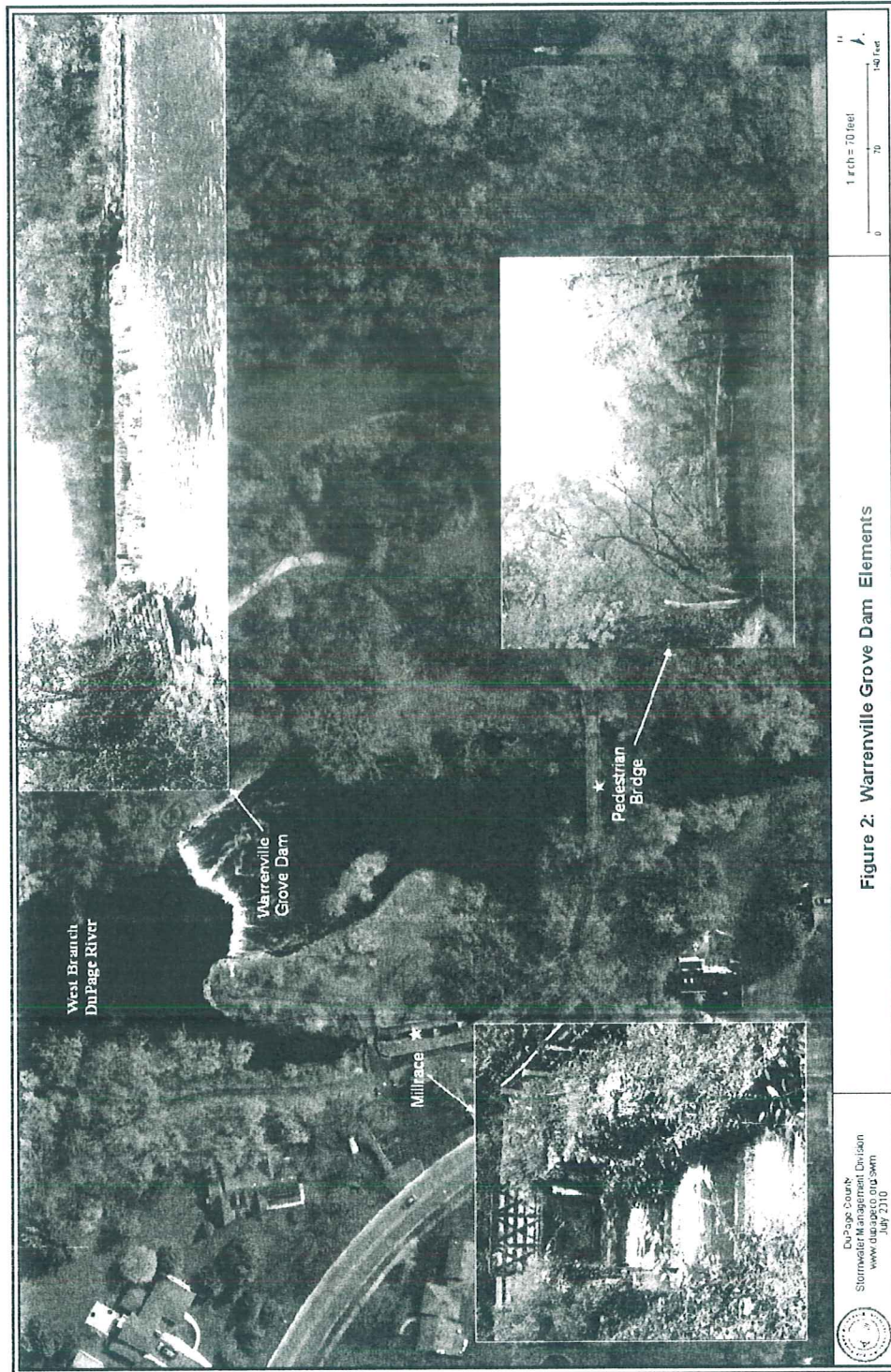
INVITED SIGNATORIES

National Oceanic and Atmospheric Administration

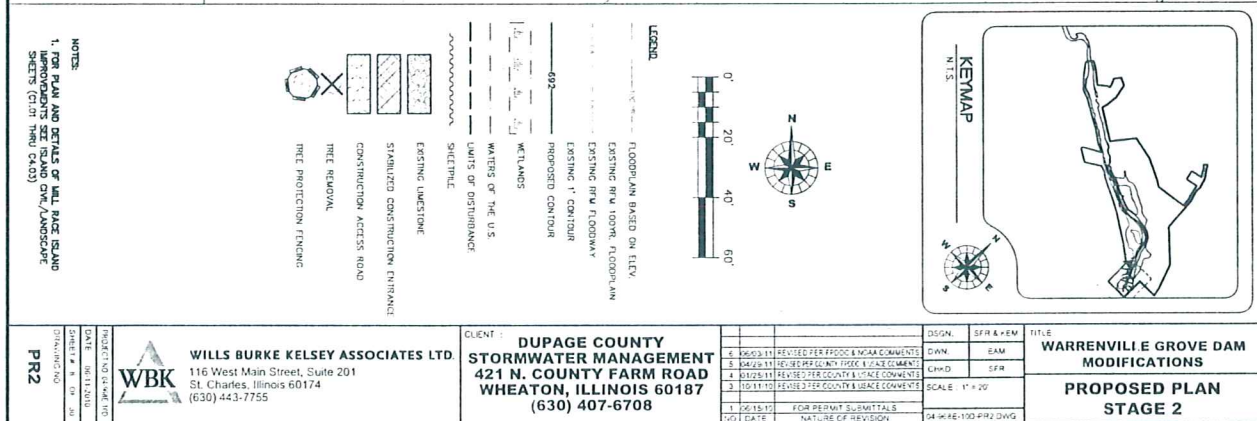
By: _____ Date: _____
Miguel Aparicio, Federal Preservation Officer

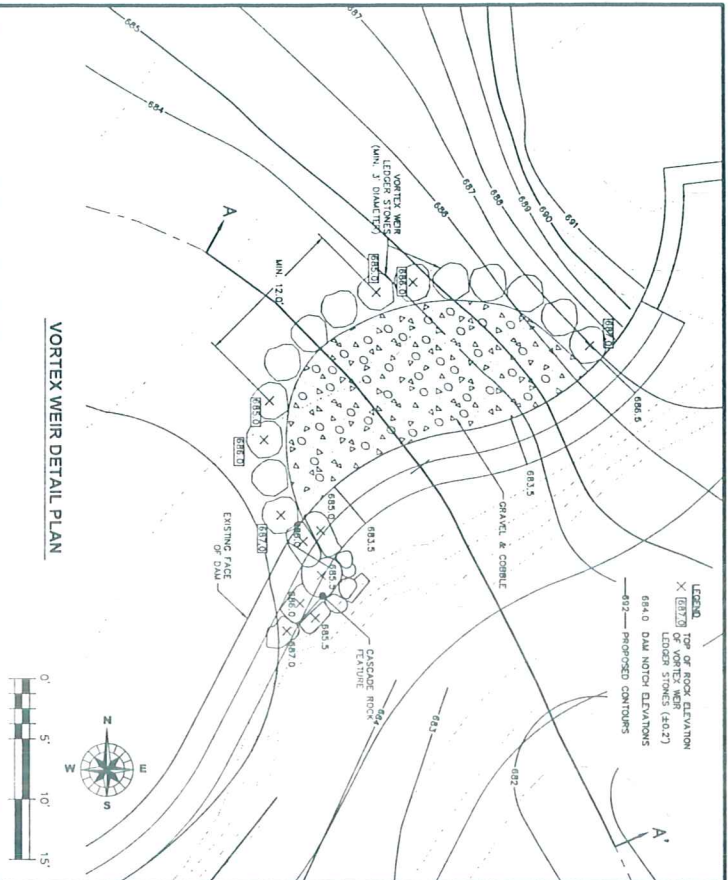
ATTACHMENTS

ATTACHMENT 1
Location and Photograph of Warrenville Grove Dam Millrace

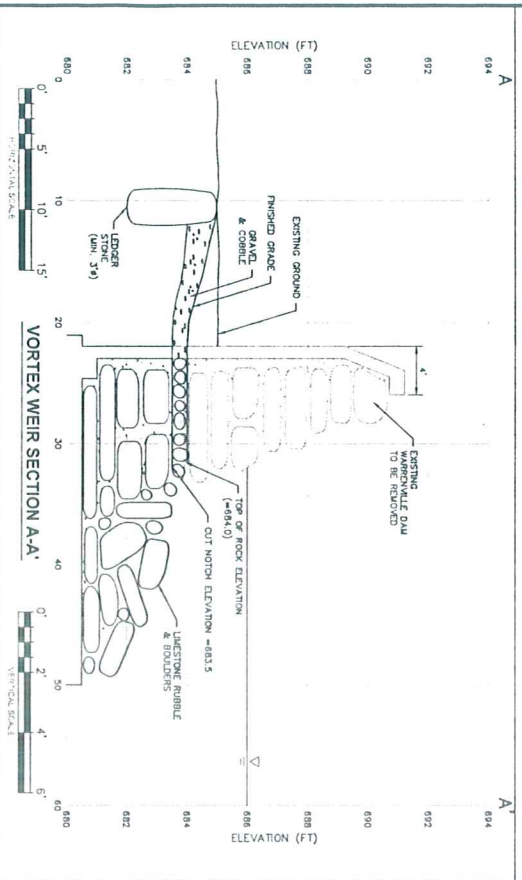


ATTACHMENT 2
Millrace Inlet System

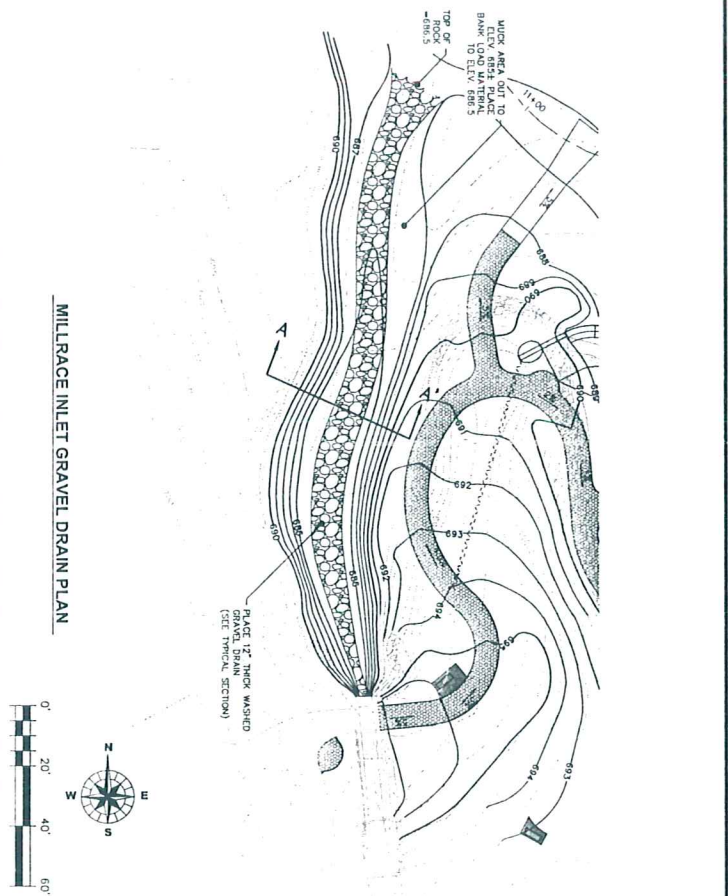




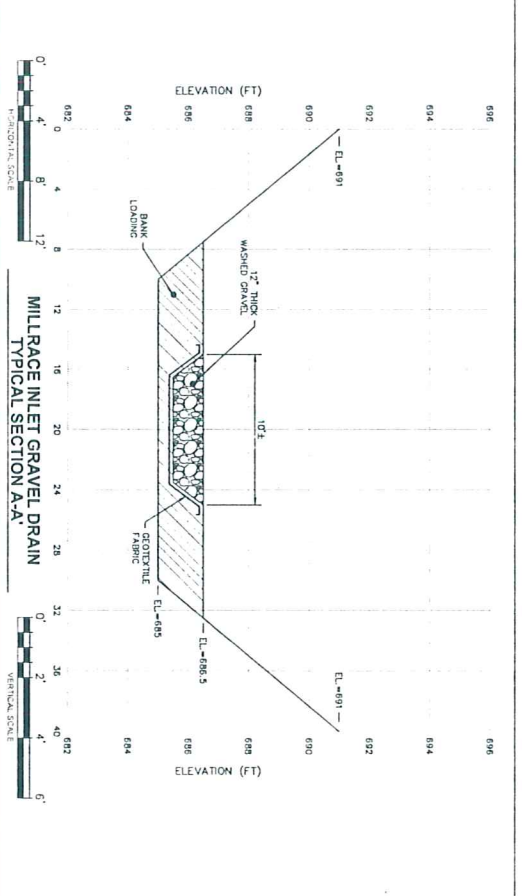
VORTEX WEIR DETAIL PLAN



VORTEX WEIR SECTION A-A'



MILLRACE INLET GRAVEL DRAIN PLAN



MILLRACE INLET GRAVEL DRAIN TYPICAL SECTION A-A'